

**Federal Defenders
OF NEW YORK, INC.**

52 Duane Street-10th Floor, New York, NY 10007
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton
*Executive Director
and Attorney-in-Chief*

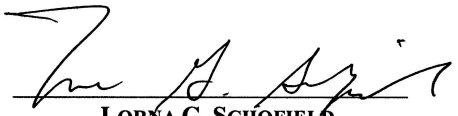
July 13, 2021

Application Granted. The parties shall appear for a change of plea and sentencing hearing on **August 3, 2021, at 11:00 a.m.** The parties shall file any written sentencing submissions on or before **July 27, 2021**. The Clerk of the Court is directed to terminate the letter motion at docket number 55.

BY ECF AND EMAIL

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York
40 Foley Square Room 201
New York, New York 10007

**Dated: July 20, 2021
New York, New York**


**LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE**

**Re: United States v. Jose Santana
16 Cr. 312 (LGS)**

Dear Judge Schofield:

I respectfully write on behalf of my client, Jose Santana, to request that the Court calendar Mr. Santana's violation of supervised release hearing for purposes of entering a guilty plea to be followed by sentencing. Mr. Santana will enter a guilty plea to specification number 12 of the most recent amended violation report, a charge that he committed the state crime of petit larceny, and we respectfully request that sentencing proceed immediately thereafter. The Government has no objection to this procedure.

Background Information

As the Court may be aware, Mr. Santana was charged with the identical violation of supervised release, pending before Judge Gardephe under Indictment number 18 Cr. 466(PGG). The underlying charge on that case was Escape. On June 24, 2021, Mr. Santana entered a plea of guilty before Judge Gardephe to Specification number 12, petit larceny. All other specifications were dismissed by the Government. The parties made a joint recommendation as to Sentence. The recommendation was to impose a sentence of Time Served with no additional supervision to follow. Probation and the Government each confirmed their recommendation to the Court, and Judge Gardephe imposed the recommended sentence after voicing his agreement based on the information before the Court. Mr. Santana has no other pending cases and is being held in custody solely on the basis of the violation of supervised release pending before Your Honor.

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York

July 13, 2021
Page 2

**Re: United States v. Jose Santana
16 Cr. 312 (LGS)**

The Parties Recommendation Is Warranted

In the matter before Your Honor, Mr. Santana seeks the imposition of a sentence of Time Served and no further supervision, the same sentence imposed by Judge Gardephe. Probation specifically recommends this sentence, and the Government has no objection.

Mr. Santana has been continually incarcerated for approximately 19 months. On the charge of petit larceny in the State Court, Mr. Santana was sentenced to a term of 365 days. Probation has verified from the Bureau of Prisons that Mr. Santana has an additional 7 months in federal custody.

As the Court may be aware, Mr. Santana suffers from severe cognitive disabilities. His IQ has been tested as low as 47. He is in the bottom 1% of intellectual testing. It is the belief of Probation, as well as the defense, that many of his failures to make appointments and meet schedules set for him were due to his inability to comprehend time schedules and travel to various locations.

In the past year, in contemplation of ultimately resolving the violation before Your Honor, Probation Officer Maritza Almonte and the social workers from my office, have been working together to attempt to find appropriate programs for Mr. Santana. All efforts were unsuccessful. Judge Gardephe had recommended that we contact the New York Office For People With Developmental Difficulties (OPWDD). The parties spoke with John McGowan, Chief Psychologist. He confirmed that there were three possible agencies who might work with Mr. Santana. Ultimately, after several discussions, Mr. Santana was found not to be suitable for placement because of developmental difficulties, mental health issues and past drug use.

On the positive side, during Mr. Santana's incarceration on Rikers Island, he attended classes and received his OSHAA Certificate which will enable him to join the construction workers union. We are hopeful that this will enable him to get a good job in the construction industry. My office's social workers will continue to meet with Mr. Santana to assist him in finding permanent housing and other New York City living benefits.

Honorable Lorna G. Schofield
United States District Judge
Southern District of New York

July 13, 2021
Page 3

**Re: United States v. Jose Santana
16 Cr. 312 (LGS)**

Accordingly, we respectfully request that the Court schedule Mr. Santana to enter a guilty plea to specification number 12 and thereafter adopt the recommendations of Probation, defense counsel, and the Government, imposing a sentence of Time Served, with no further supervision.

Respectfully submitted,


Robert M. Baum
Assistant Federal Defender

cc: David Denton, Esq.
Assistant United States Attorney